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| | Examiner | Andrew Y Koenig |
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In response to the Office Action mailed on September 09, 2004, reconsideration of the rejection of claims 1-23 and 30-48, which remain pending in the application, is respectfully requested.

A. Rejection of Claims 1-3, 6-8, 10-11, 13-14, 16-17, 19-21, 30-32, 34-39, 42-43 and 45-48 Under 35 U.S.C. § 103(a)

Claims 1-3, 6-8, 10-11, 13-14, 16-17, 19-21, 30-32, 34-39, 42-43 and 45-48 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams et al. (U.S. Pat. 5,977,964) (Williams) in view of Nickum (U.S. Pat. 6,359,661) (Nickum). This rejection is respectfully traversed.

All of the independent claims, claims 1, 7, 13, 19, 30, 36, 37 and 45, recite either: (i) that at least one user is already present in a viewing volume and determining whether an additional user is newly present in the viewing volume; (ii) that a plurality of users are present in a viewing volume and are identified; or (iii) that a determination is made that a user is present with at least one further user in a viewing volume. For short hand purposes, these recitations will be referred below to as identifying more than one user present in a viewing volume. It will be appreciated that "user" can refer to a child or

other sensitive viewer that has entered the viewing volume and that, in this regard, it is this “user” with which the invention is primarily concerned.

The Williams reference and the differences between that reference and the present invention were discussed in some detail in the previous responses and those discussions will not be repeated here. The Examiner appears to agree that the system of Williams is only capable of identifying a single person at a time, viz., the person that is actually interacting with the system, and has no clue whether one or more other persons are in a viewing volume.

The Examiner states that, “Nickum teaches a remote control identification for identifying when additional persons are present in a viewing volume and restricting access based on the lowest common denominator (col. 6, ll. 20-37 and col. 7-8, ll. 65-19).”

Applicant respectfully disagrees. Nickum teaches a method and apparatus for controlling access to and display of programming for only one user at a time using remote control devices. Each remote control device is assigned at least one unique user id (col. 4, ll. 66-67). Each user id is one of either a “master control user id” which provides access to program control parameters, or a “user id” that provides access to viewer profile parameters (col. 5, ll. 3-6). When no user id is input, the remote device defaults for that single user to the lowest level of access for all users of the system, i.e., the lowest common denominator (col. 5, ll. 9-11). When using the remote control device to access content not included in the lowest level of access, a user id is input, the appropriate level of access for that single user is determined, and the user is given access for a predetermined time (a few seconds to a few minutes) to access

programming according to their particular user id profile (FIG. 4, col. 5, ll. 26-59, and col. 8, ll. 20-33). Nowhere does Nickum teach or suggest identifying more than one user present in a viewing volume.

One section of Nickum cited by the Examiner (col. 6, ll. 20-37) describes an embodiment in which multiple viewers use the same remote control device. After entering a master control user id, a master control user can view or modify the specific programming restrictions associated with the user ids for the other viewers that use that remote control device. Thus, this section describes the scenario where a single master control user enters a master control user id on a single remote control device in order to view or modify the programming restrictions associated with the user ids for other viewers that use that remote control device. Nowhere does this section of Nickum teach or suggest identifying more than a single user present in a viewing volume.

Additionally, the other section of Nickum cited by the Examiner (col. 7-8, ll. 65-19) describes the scenarios where a single user either fails to enter a user id or enters a user id that does not match any user ids stored on the remote control device. In the case where the user fails to enter a user id, the remote control device defaults to the most limited level of access for the user ids stored on the device. In the case where the user id does not match an id of the user ids stored on the device, the device also defaults to the most limited level of access. In either scenario, if the selection by the single user is not one of those blocked according to the programming restrictions stored on the remote control device, then the selection is allowed and transmitted to the television receiver (col. 8, ll. 20-33). Nowhere does this section of Nickum teach or suggest identifying more than a single user present in a viewing volume.

Finally, it is noted that although FIG. 1 of Nickum appears to illustrate multiple remote control devices simultaneously communicating with a television receiver, it will be apparent upon review of the specification that the system shown in FIG. 1 merely provides for user control of television programming by means of multiple remote controls, and not simultaneous use of the remote controls (col. 3-4, ll. 49-3). In fact, every embodiment described in the specification is specifically limited to the scenario of one remote control at a time interacting with the television receiver. Nowhere does Nickum ever teach or suggest more than one remote control at a time interacting with the television receiver. Thus, nowhere does Nickum teach or suggest identifying more than one user present in a viewing volume.

In summary, it is respectfully submitted that Nickum does not, in fact, teach or suggest identifying more than one user present in a viewing volume. Thus, independent claims 1, 7, 13, 19, 30, 36, 37 and 45 all define over Williams and Nickum, alone or together, as neither reference teaches or suggests a user-recognition input device as claimed that identifies more than one user present in a viewing volume. The remaining claims listed in the rejection under 35 U.S.C. § 103(a) as being unpatentable over Williams in view of Nickum all depend from the independent claims and thus are patentable for at least the reasons set forth above in support of the patentability of the independent claims. Accordingly, it is respectfully suggested that the rejection of claims 1-3, 6-8, 10-11, 13-14, 16-17, 19-21, 30-32, 34-39, 42-43 and 45-48 can be properly withdrawn.

B. Rejection of Claims 4-5, 9, 12, 15, 18, 22-23, 33, 40-41 and 44 Under 35 U.S.C. § 103(a)

Claims 4-5, 9, 12, 15, 18, 22-23, 33, 40-41 and 44 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams and Nickum in view of one or more of: Lu et al. (U.S. Pat. 5,977,964); Wachob (U.S. Pat. 5,231,494); Kipust (U.S. Pat. 6,002,427); or Ford (U.S. Pat. 6,181,364).

It is respectfully submitted that none of the latter patents make up the deficiencies of Williams as a reference against the claims and thus, none of the references cited, however combined or taken together, teach or suggest a user-recognition input device identifying or determining the presence of a plurality of users present in a viewing volume. Thus, for at least the reasons discussed above, it is respectfully suggested that the rejection of claims 4-5, 9, 12, 15, 18, 22-23, 33, 40-41 and 44 can also be properly withdrawn.

Conclusion

It is respectfully urged that the instant application is in condition for allowance. However, if the Examiner believes that there are unresolved issues, the Examiner is respectfully invited to contact the Applicant's attorneys-of-record to discuss the issues.

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